

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

ANTHONY J. SEDLER,

Plaintiff,

vs.

NO. **CV 2009 10398**

FINANCIAL RECOVERY SERVICES, INC.,

Defendant.

SUMMONS

TO: Financial Recovery Services, Inc.
Post Office Box 385908
Minneapolis, MN 55438-5908

Greetings:

You are required to serve upon Alfred M. Sanchez, Attorney for Plaintiff, an answer or motion in response to the Complaint which is attached to this Summons within thirty (30) days after service of this Summons upon you, exclusive of the day of service, and file a copy of your answer or motion with the Court as provided in Rule 1-005NMRA.

If you fail to file a timely answer or motion, default judgment may be entered against you for the relief demanded in the Complaint.

Name and Address of Plaintiff's Attorney:

Alfred M. Sanchez
301 Gold Ave. SW, Ste. 202
Albuquerque, N.M. 87102

WITNESS the Honorable NAN G. NASH, district judge of the Second Judicial District Court of the State of New Mexico, and the seal of the district court of said County, this day of AUG 28 2009.

JUANITA M. DURAN
(Clerk of the District Court)

By: GERI SOLANO
Deputy

NOTE:

This summons does not require you to see, telephone or write to the District Judge of the Court at this time.

It does require you or your attorney to file your legal defense to this case in writing with the Clerk of the District Court within 30 days after the summons is legally served on you. If you do not do this, the party suing may get a Court Judgment by default against you. If you want the advice of a lawyer and don't know one, you may wish to call the State Bar Statewide Lawyer Referral Service at 797-6066.

RETURN

STATE OF _____)
) ss.
 COUNTY OF _____)

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served the within Summons in said County on the _____ day of _____, 20____, by delivering a copy thereof, with copy of Complaint attached, in the following manner:

- [] to Defendant _____ (used when Defendant receives copy of Summons or refuses to receive Summons).
- [] to the Defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this Summons, with a copy of Complaint attached, in the following manner:

- [] to _____, a person over fifteen (15) years of age and residing at the usual place of abode of Defendant _____, (used when Defendant is not presently at place of abode) and by mailing by first class mail to the Defendant at _____ (insert Defendant's last known mailing address) a copy of the Summons and Complaint.
- [] to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert Defendant's business address) and by mailing the Summons and Complaint by first class mail to the Defendant at _____ (insert Defendant's last known mailing address).
- [] to _____, an agent authorized to receive service of process for Defendant _____.
- [] to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of Defendant _____, (used when Defendant is a minor or an incompetent person).
- [] to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the Defendant is a corporation or an association subject to a suit under a common name, land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

 Signature of Person Making Service

 Title (if any)

Subscribed and sworn to
 before me this _____ day
 of _____, 20____.

 Judge, Notary or Other Officer
 Authorized to Administer Oaths

 Official Title
 My Commission Expires: _____

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

ENDORSED
FILED IN MY OFFICE THIS

AUG 28 2009

Quantita M. Duran
CLERK DISTRICT COURT

VALENTINE

ANTHONY J. SEDLER,

Plaintiff,

vs.

CV 2009 10398

Case No.: _____

FINANCIAL RECOVERY SERVICES, INC.,

Defendant.

**COMPLAINT FOR VIOLATION
OF THE FAIR DEBT COLLECTION PRACTICES ACT**

COMES NOW, Plaintiff, Anthony J. Sedler, by and through the undersigned counsel, and files this Complaint against Defendant, Financial Recovery Services, Inc., pursuant to the Fair Debt Collection Practices Act and the New Mexico Collection Agency Regulatory Act and in support shows the following:

I. INTRODUCTION AND PARTIES

1. This is an action for declaratory relief, actual and statutory damages brought by Plaintiff against Defendant for violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* ("FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

2. Plaintiff, Anthony J. Sedler is a natural person residing in Albuquerque, New Mexico.

3. Plaintiff is an individual "consumer" as defined by 15 U.S.C. § 1692a(3) of the FDCPA and a "debtor" under NMSA 1978, § 61-18A-2H of the Collection Agency Act.

4. Upon information and belief, Defendant, Financial Recovery Services, Inc. is an out-of-state corporation engaged in the business of collecting debt in New Mexico with its principal place of business located outside of the state. The principal purpose of Defendant is the collection of debts in this state.

COPY

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Financial Recovery Services, Inc. regularly attempts to collect debts alleged to be due another. Defendant is a "debt collector" as defined by FDCPA, 15 U.S.C. § 1692a(6).

II. JURISDICTION

6. Jurisdiction is proper before this court since Plaintiff is a resident of Albuquerque, New Mexico and Bernalillo County. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Venue in this District is proper in that the conduct complained of occurred in Albuquerque, New Mexico.

III. FACTUAL ALLEGATIONS

7. By correspondence on the letterhead of Financial Recovery Services, Inc. dated June 9, 2009, Defendant mailed a collection demand to Plaintiff. See Exhibit A – Financial Recovery Services, Inc. Collection Letter attached hereto.

8. Plaintiff received Ex. A at his home address in Albuquerque, New Mexico on or about June 15, 2009.

9. Defendant lists its address as "P.O. Box 385908, Minneapolis, MN 55438-5908" on the collection letter.

10. Exhibit A reads in part:

"To make this easier for you to resolve, we are authorized to offer you the opportunities listed below....."

11. Exhibit A references the account as follows:

Client: Resurgent Capital Services LP
Current Creditor: LVNV Funding LLC
Account Number: xxxxxxxxxxxx7912
Balance: \$897.65

12. The alleged debt claimed in the collection letter was incurred for personal, family, or household service.

13. The collection letter contains a required statement regarding Plaintiff's right to dispute the debt or request verification of the debt within thirty (30) days from the date of receipt. Ex. A.

14. On June 30, 2009, the undersigned counsel mailed a letter on behalf of Plaintiff requesting verification of the alleged debt, including "the name and address of the original creditor....an itemization of the amount of the debt detailing the amounts attributed to 'principal', 'interest', 'fees', and/or 'costs'," and "copies of documents regarding the debt." See Exhibit B – Alfred M. Sanchez, Esq. Letter and Certified Mail Receipt.

15. Exhibit B was delivered to Defendant on July 6, 2009.

16. Defendant failed to respond to the verification demand, and has not provided any of the information requested in Exhibit B to Plaintiff nor to the undersigned.

**COUNT I
FAILURE TO PROVIDE VERIFICATION OF DEBT IN VIOLATION OF
FDCPA 15 U.S.C. §§ 1692E AND 1692G(B)**

17. The Fair Debt Collection Practices Act at 15 U.S.C. §§ 1692e and 1692g(b) requires a debt collector to notify a consumer of the right to demand verification of a debt and to *receive* verification from the debt collector within thirty (30) days of consumer's request for verification.

18. The undersigned attorney mailed a letter demanding verification of the debt on Plaintiff's behalf on June 30, 2009. Ex. B.

19. The verification demand letter requested information regarding the debt including the nature of the debt, an itemization of the amount, verification that the statute of limitation had not expired on the debt, and documentation regarding the debt. Ex. B.

20. Defendant failed to respond to the demand for verification within 30 days of the written request.

21. Defendant has not submitted any information regarding the alleged debt to Plaintiffs or the undersigned as of the date of this Complaint.

22. Upon receiving the demand letter, Defendant had a duty to provide the requested information to Plaintiff.

23. THEREFORE, Defendant violated 15 U.S.C. §§ 1692e and 1692g(b) of the FDCPA as follows:

(a) Defendant violated 15 U.S.C. §§ 1692e and 1692g(b) by failing to respond to Plaintiff's request for verification of the debt;

(b) Defendant violated 15 U.S.C. §§ 1692e and 1692g(b) by failing to respond to Plaintiff's request regarding proof that the statute of limitation had not expired on the debt;

(c) Defendant violated 15 U.S.C. §§ 1692e and 1692g(b) by failing to provide documentation regarding the debt to Plaintiffs;

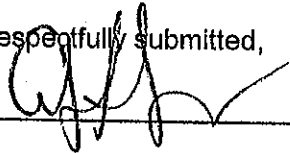
24. As a result of the foregoing violations of the FDCPA, Defendant is liable to Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA, statutory damages, costs, attorney's fees and interest where available.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Anthony J. Sedler, prays that this Honorable Court enter judgment in favor of Plaintiff and against Defendant, Financial Recovery Services, Inc., and grant the following relief:

- A. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act;
- B. Statutory damages pursuant to 15 U.S.C. § 1692k;
- C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k; and,
- D. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,



ALFRED M. SANCHEZ

Law Offices of Alfred M. Sanchez
301 Gold Ave. SW, Ste. 202
Albuquerque, NM 87102
Tel. (505) 242-1979

*Attorney for Plaintiff
Anthony J. Sedler*

DEPT 813 5755795609067
PO BOX 4115
CONCORD CA 94524

P.O. Box 385908
Minneapolis, MN 55438-5908
1-877-476-9749

Return Service Requested

June 9, 2009

|||||

UK7611
ANTHONY J SEDLER
9400 MOGOLLON DR NW
ALBUQUERQUE NM 87114-4459

CLIENT: RESURGENT CAPITAL SERVICES LP
CURRENT CREDITOR: LVNV FUNDING LLC
REGARDING: CITIBANK
ACCOUNT NUMBER: XXXXXXXXXXXX7912
BALANCE: \$897.95

TO MAKE THIS EASIER FOR YOU TO RESOLVE, WE ARE AUTHORIZED TO OFFER YOU THE OPPORTUNITIES LISTED BELOW:

- () MY ACCOUNT WILL BE PAID IN FULL BY A ONE-TIME PAYMENT EQUIVALENT TO \$897.95; OR
- () MY ACCOUNT WILL BE SETTLED BY A ONE-TIME PAYMENT EQUIVALENT TO 60.00% OF THE ABOVE REFERENCED BALANCE IN THE AMOUNT OF \$538.77; OR
- () MY ACCOUNT WILL BE SETTLED BY THREE EQUAL CONSECUTIVE MONTHLY PAYMENTS EQUIVALENT TO 75.00% OF THE ABOVE REFERENCED BALANCE FOR A TOTAL REPAYMENT OF \$673.46; OR
- () I WILL MAKE A MONTHLY PAYMENT THAT IS AFFORDABLE TO ME AT THIS TIME AS FOLLOWS. I WILL PAY \$ _____ MONTHLY UNTIL MY ACCOUNT IS PAID IN FULL OR ANOTHER AGREEMENT IS NEGOTIATED. PAYMENTS WILL BE SENT ON OR BEFORE THE _____ OF EACH MONTH.

PLEASE MARK YOUR CHOICE WITH AN "X" IN THE SPACE PROVIDED AND FORWARD WITH YOUR PAYMENT TO THE ADDRESS LISTED BELOW. YOU MAY CONTACT THE REPRESENTATIVE LISTED BELOW WITH ANY QUESTIONS.

SINCERELY,

ROY KIMAL
ACCOUNT MANAGER
TOLL FREE: 1-877-476-9749

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Office hours are: Monday - Thursday, 7am to 8pm; Friday 7am to 5pm; Saturday 7am to noon.

DETACH AND RETURN THIS PORTION OF THIS NOTICE WITH YOUR PAYMENT

NOTE: ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ASSESSED A \$15.00 CHARGE.

AMOUNT ENCLOSED: _____

HOME PHONE: _____

WORK PHONE: _____

FRS File#: UK7611



PLEASE CHECK YOUR PAYMENT OPTION BELOW:

- () PAID IN FULL - \$897.95
- () SETTLED IN FULL - \$538.77
- () SETTLED IN 3 EQUAL PAYMENTS TOTALING - \$673.46
- () MONTHLY PAYMENT PLAN OF:
\$ _____ BY _____ OF EACH MONTH

TOLL FREE: 1-877-476-9749

FINANCIAL RECOVERY SERVICES, INC.
P.O. BOX 385908
MINNEAPOLIS, MN 55438-5908

|||||

Exhibit A

ANTHONY J SEDLER
9400 MOGOLLON DR NW
ALBUQUERQUE NM 87114-4459



100007 18000000000000 1000 000000

We are required under certain State and Local Laws to notify consumers of those States or Localities of the following rights. This list does not contain a complete list of the rights consumers have under Federal, State, or Local Laws.

ADDITIONAL INFORMATION FOR CALIFORNIA RESIDENTS

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

ADDITIONAL INFORMATION FOR COLORADO RESIDENTS

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE
WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM.

A CONSUMER HAS THE RIGHT TO REQUEST IN WRITING THAT A DEBT COLLECTOR OR COLLECTION AGENCY CEASE FURTHER COMMUNICATIONS WITH THE CONSUMER. A WRITTEN REQUEST TO CEASE COMMUNICATION WILL NOT PROHIBIT THE DEBT COLLECTOR OR COLLECTION AGENCY FROM TAKING ANY OTHER ACTION AUTHORIZED BY LAW TO COLLECT THE DEBT.

ADDITIONAL INFORMATION FOR MASSACHUSETTS RESIDENTS

NOTICE OF IMPORTANT RIGHTS:

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

IF YOU WISH TO DISCUSS THIS MATTER, PLEASE CALL US DIRECT, BETWEEN THE HOURS OF 8 A.M. AND 5 P.M. CST, AT THE NUMBER LISTED ON THE FRONT OF THIS NOTICE. MASSACHUSETTS RESIDENT OFFICE ADDRESS IS: 5230 WASHINGTON ST, WEST ROXBURY, MA 02132 WITH OFFICE HOURS: M-TH 10AM-3PM.

ADDITIONAL INFORMATION FOR MINNESOTA RESIDENTS

THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE.

ADDITIONAL INFORMATION FOR NEW YORK CITY RESIDENTS

This collection agency is licensed by the New York City Department of Consumer Affairs. The license number is 1015506.

ADDITIONAL INFORMATION FOR NORTH CAROLINA RESIDENTS

North Carolina Department of Insurance permit number: 3917.

ADDITIONAL INFORMATION FOR TENNESSEE RESIDENTS

This collection agency is licensed by the Collection Service Board of the State Department of Commerce and Insurance.

ADDITIONAL INFORMATION FOR WISCONSIN RESIDENTS

This collection agency is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.

NOTICE TO ALL CONSUMERS

Our staff is trained to conduct themselves in a businesslike and professional manner, and to leave you with a positive experience in dealing with our Company. Please call (866) 438-2860 with your criticisms, complaints, suggestions and compliments. To discuss the account, please call the number on the front of this letter. For your convenience, we do accept VISA and MASTERCARD payment and electronic checks over the telephone. There is also a \$15.00 charge assessed for checks returned to us for insufficient funds.

**Alfred M.
Sanchez**

Attorney at Law

June 30, 2009

Financial Recovery Services, Inc.
P.O. Box 385908
Minneapolis, MN 55438-5908

RE: Anthony J. Sedler
Current Creditor: Resurgent Capital Services LP
Reference: 7912
Account ID: UK7611

Dear Financial Recovery Services:

In regard to your letter dated June 9, 2009, please be advised that I have been retained by Anthony Sedler in connection with the alleged debt captioned above. This letter serves as a formal dispute of the debt and a demand for verification pursuant to the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, et. seq. Please provide the following information:

1. Name and address of the original creditor;
2. The nature and balance of the debt;
3. An itemization of the amount of the debt detailing the amounts attributed to "principal", "interest", "fees", and/or "costs.";
4. A statement by the original creditor that the debt has not been paid;
5. Verification of the date(s) when the debt was incurred;
6. Proof that the statute of limitation has not expired on the debt; and
7. Copies of all documents regarding the debt.

You are hereby notified that any and all correspondence regarding this matter should be addressed to my office at 301 Gold SW, Suite 202, Albuquerque, NM 87102 and that you are required to cease communication with my client upon receipt of this letter.

Sincerely yours,


ALFRED M. SANCHEZ

AMS:bs

Exhibit B

301 Gold SW • Suite 202 • Albuquerque, New Mexico 87102 • (505) 242-1979



Date: 08/28/2009

Alfred Sanchez:

The following is in response to your 08/28/2009 request for delivery information on your Certified Mail(TM) item number 7008 1140 0003 9351 9054. The delivery record shows that this item was delivered on 07/06/2009 at 07:18 AM in MINNEAPOLIS, MN 55437. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section	
Signature	<i>[Handwritten Signature]</i>
Printed Name	B. Bowers

Address of Recipient:

Address	P.O. Box 385908
---------	-----------------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

U.S. Postal Service TM		
CERTIFIED MAIL TM RECEIPT		
(Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at www.usps.com		
MINNEAPOLIS MN 55438-5908		
OFFICIAL USE		
Postage	\$ 0.44	0129 ALBANY STATION 87102 Postmark JUL 1 2009 07/01/2009 USPS
Certified Fee	\$2.80	
Return Receipt Fee (Endorsement Required)	\$1.10	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 4.34	
Sent to: Financial Recovery Services		
Street Apt. No. or PO Box No. POB 385908		
City, State, ZIP+4 Minneapolis MN 55438-5908		
PS Form 3800, August 2006 See Reverse for Instructions		

7008 1140 0003 9351 9054

ENDORSED
FILED IN MY OFFICE THIS

AUG 28 2009

Guillermo M. Duran
CLERK DISTRICT COURT

VALERIE BEGAY

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

ANTHONY J. SEDLER,

Plaintiff,

vs.

CV 2009 10398

No. _____

FINANCIAL RECOVERY SERVICES, INC.,

Defendant.

COURT-ANNEXED ARBITRATION CERTIFICATION

COMES NOW the Plaintiff, Anthony J. Sedler, by and through his counsel of record, Alfred M. Sanchez, pursuant to Second Judicial District Local Rules, Rule LR2-603, certifies as follows:

This party seeks only a money judgment and the amount sought does not exceed twenty-five thousand dollars (\$25,000) exclusive of punitive damages, interest, costs and attorney fees.

Respectfully submitted,



ALFRED M. SANCHEZ
Attorney for Plaintiff
301 Gold Ave. SW, Ste. 202
Albuquerque, NM 87102
(505) 242-1979